

February 26, 2019

Mayor Catherine Pugh
City Hall
100 N. Holliday St
Baltimore, MD 21202

Dear Mayor Pugh:

We congratulate you on your stance in support of Baltimore State's Attorney Marilyn Mosby's announcement that she would no longer prosecute cases of simple cannabis possession. As you so aptly said in support: "The unnecessary criminalization of those who possess marijuana merely for personal use" is not appropriate if we're going to commit ourselves to addressing violent crime. Yet acting Police Commissioner Gary Tuggle indicated that the Baltimore Police Department (BPD) has no intention of changing police procedure. If you stand with SA Mosby, as you say you do, then you must call on the Baltimore City Police Department and Acting Commissioner Harrison to stop arresting people for cannabis possession. There is no other path forward to end this injustice.

We request that you respond to this letter by Friday, March 8, 2019 with a public directive to the BPD to change their procedures to reflect the new commitment made by the State's Attorney's Office.

As Mayor, you are the chief executive of Baltimore City. You nominate the police commissioner and you have enormous influence in how the police department operates. We look to you to ensure that BPD is responsive to our concerns and promptly ends its racist cannabis policing practices. The long-term harm of continued cannabis possession enforcement is too grave for you not to take bold and immediate action.

For decades, the BPD has prioritized cannabis possession and other low-level offenses over public safety issues. For the last three years, Baltimore has seen almost one killing per day.¹ Our neighbors are dying in the streets in vast numbers, among the highest in the country, and yet the BPD's solve rates are below 30 percent, among the lowest in the country and half that of the already low national average. At least one study estimates the costs of each homicide prosecution at between \$22,000 and \$44,000 a year.²

¹ Wesley Lowry, Steven Rich, & Salwan Georges, "As police struggle to solve homicides, Baltimore residents see an 'open season for killing,'" *Washington Post*, Dec. 27, 2018, available at https://www.washingtonpost.com/investigations/as-police-struggle-to-solve-homicides-baltimore-residents-see-an-open-season-for-killing/2018/12/26/7ee561e4-fb24-11e8-8c9a-860ce2a8148f_story.html?noredirect=on&utm_term=.98bc02a3c5b8.

² Priscilla Evelyn Hunt, Jessica Saunders, & Beau Kilmer, "Estimates of Law Enforcement Costs by Crime Type for Benefit-Cost Analyses," *Journal of Benefit-Cost Analysis* 1-29 (2018).

There is no question that Baltimore's legacy of cannabis arrests and prosecution has deeply eroded trust between law enforcement and our communities of color. In April 2014, former Gov. Martin O'Malley signed a bill into law to reduce the penalty for possession of fewer than 10 grams of cannabis to a simple citation and fine. Decriminalization immediately helped people avoid contact with the justice system, reducing the disruptive, harmful and counterproductive effects that enforcement always imposes. Misdemeanor arrests and charges, however, have remained more or less static, and many people in Baltimore are still criminally prosecuted for possessing cannabis. And nearly all of them -- 96 percent -- are Black.³ This is particularly egregious because we have long known that white and Black Americans use cannabis at roughly the same rates.⁴ How could this injustice not create conflict? It is no wonder that tensions between Baltimore police and Black communities remain persistently high. But we can take action to help heal this division - and ending enforcement for simple cannabis possession is a critical first step.

By all objective metrics, the War on Drugs is a complete failure; or rather, this racist war has succeeded in targeting and dismantling communities of color. Over the past four decades, federal and state governments have poured an estimated \$1 trillion into this effort.⁵ Yet, the set of regressive policies and policing that make up the drug war have failed to reduce drug use or availability.⁶ But one thing the drug war has successfully accomplished is driving up violent crime. Law enforcement agencies, like BPD, frequently argue that drug-related violence is reason to continue enforcing the failed policies that prohibition demands. But, in fact, it is the system of drug prohibition that drives much of the violence they claim to be fighting against.⁷ The drug war also overburdens prosecutors. In 2013, 32 percent of defendant filings in U.S. district courts were for drug-related cases, the biggest category of filings.⁸ This puts enormous strain on an already resource-limited criminal legal system and the specific overload on prosecutors is a key driver of lower crime clearance rates. Further, above-average homicide rates, like Baltimore currently suffers from, also result in lower successful investigations and

³ Ethan McLeod, Andy Friedman & Brandon Soderberg, "Structural Racism and Cannabis: Black Baltimoreans still disproportionately arrested for weed after decriminalization," *Baltimore Fishbowl*, Dec. 28, 2018, available at <https://baltimorefishbowl.com/stories/structural-racism-and-cannabis-black-baltimoreans-still-disproportionately-arrested-for-weed-after-decriminalization/>.

⁴ American Civil Liberties Union, *The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests* (June 2013), available at <https://www.aclu.org/files/assets/1114413-mj-report-rfs-rel1.pdf>.

⁵ Drug Policy Alliance, *Making Economic Sense*, available at <http://www.drugpolicy.org/issues/making-economic-sense>.

⁶ Dan Baum, *Smoke and Mirrors: The War on Drugs and the Politics of Failure* (Back Bay Books, May 1997); Eva Bertram et al, *Drug War Politics: The Price of Denial* (University of California Press, 1996).

⁷ Hannah LF Cooper "War on Drugs Policing and Police Brutality", 50 *Substance Use & Misuse* 1188-1194 (2016), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4800748/>.

⁸ U.S. Courts, *Federal Judicial Caseload Statistics 2017*, available at <https://www.uscourts.gov/statistics-reports/federal-judicial-caseload-statistics-2017>.

prosecutions of homicide cases. And when homicide goes unaddressed, research has shown us, there is a far greater likelihood of more homicide.⁹

Cannabis the most widely-used illicit substance in the United States.¹⁰ Ten states, including the District of Columbia, have legalized cannabis for adult use. Thirty-two states, including Maryland, have approved medical cannabis. Two in three Americans now support the full legalization of cannabis.¹¹ And a strong majority of Maryland voters also say that cannabis should be legalized.¹²

SA Mosby has taken one step on a sensible path toward securing public safety and restoring faith in law enforcement. But that path is meaningless so long as the police insist on arresting and incarcerating for reasons that have nothing to do with public safety. We need strong leadership from you to make clear that our community resources should be used to keep our community safe.

With your leadership, Baltimore can rebalance its public safety priorities, foster trust between the Black community and the police, reduce the dramatic racial disparities in marijuana enforcement, and start improving its response to serious crimes as the community needs. Several other cities provide examples of how to accomplish this important change, including New York City and New Orleans. Both introduced city policies to end arrests for cannabis possession. In New York City, Mayor Bill De Blasio negotiated with the police to end arrests for people smoking or possessing cannabis in public view.¹³ This policy change came about because of community pressure to further limit arrests in response to dramatic racial disparities in cannabis arrests reported a few months earlier.¹⁴ Police now issue civil tickets in the vast majority of cases, tickets that involve a civil fine or one day of community service but no possibility of jail time. New Orleans City Council, with the support of New Orleans Police

⁹ Brendan O'Flaherty & Rajiv Sethi, "Homicide in black and white", 68 *Journal of Urban Economics* 215-230 (2010), available at <https://www.sciencedirect.com/science/article/pii/S0094119010000343>.

¹⁰ Substance Abuse and Mental Health Services Administration (SAMHSA), *National Survey on Drug Use and Health* (2015), available at <https://www.samhsa.gov/data/sites/default/files/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015.htm>

¹¹ Justin McCarthy, "Two in Three Americans Now Support Legalizing Marijuana," *Gallup*, Oct. 22, 2018, available at <https://news.gallup.com/poll/243908/two-three-americans-support-legalizing-marijuana.aspx>.

¹² Tyler Waldmen, "Maryland Voters Warming To Legalized Sports Betting, Marijuana," *WBAL NewsRadio*, Jan. 7, 2019, available at <https://www.wbal.com/article/366485/21/maryland-voters-warming-to-legalized-sports-betting-marijuana>.

¹³ Benjamin Mueller, "New York City will end marijuana arrests for most people," *N.Y. Times*, June 19, 2018, available at <https://www.nytimes.com/2018/06/19/nyregion/nypd-marijuana-arrests-new-york-city.html>.

¹⁴ Benjamin Mueller, Robert Gebeloff, & Sahill Chinoy, "Surest way to face marijuana charges in New York: Be Black or Hispanic," *N.Y. Times*, May 13, 2018, available at <https://www.nytimes.com/2018/05/13/nyregion/marijuana-arrests-nyc-race.html>.

Department Superintendent William Harrison, implemented a similar policy in their city ending arrests for anyone over the age of 17 who possess less than 2.5 pounds of cannabis in 2016.¹⁵

We need your support and leadership to foster trust between the Black community and the police, and prioritize addressing the serious crimes that plague our city. As your constituents and neighbors, we ask you to be equally bold in embracing this critical reform and ensuring that the police stop arresting our citizens for marijuana enforcement.

Signed:

[List in formation]

African American Democratic Clubs of Maryland
Baltimore Harm Reduction coalition
Charm City Care Connection
Clergy for a New Drug Policy
Criminal Justice Policy Foundation
Human Trafficking Prevention Project
Interfaith Action for Human Rights
Law Enforcement Action Partners
Mothers of Murdered Sons and Daughters United Inc. (MOMS)
Power Inside
No Boundaries Coalition
Nurses for Justice Baltimore
Sex Workers Outreach Project

¹⁵ Greg LaRose, "New Orleans softens marijuana possession laws starting this week," *The Times-Picayune*, June 20, 2016, available at https://www.nola.com/crime/index.ssf/2016/06/new_orleans_softer_marijuana_p.html.

